REMARKS

Favorable reconsideration of the application is requested in view of the following remarks. Claims 1-12 and 82-90 are pending. No new matter has been added.

Claims 1-6, 11, 12, 83 and 85-90 stand rejected under 35 U.S.C. 102(b) as anticipated by Rudd, U.S. Patent No. 6,431,268. Claim 84 is rejected as obvious over Rudd in view of Moriya et al., U.S. Patent No. 5,230,466. Claims 7-10 are rejected as obvious over Rudd in view of Smith, U.S. Patent No. 4,437,608. Claims 7-10, 82 and 84 are rejected as obvious over Rudd in view of Kubota, JP07332737. Applicant respectfully traverses these rejections.

Claim 1 as amended recites a method comprising (1) tracking an aggregate amount of time that air has been transferred into or out of a space during an air transfer period, wherein said aggregate amount comprises time during which a hot or cold air generation system is on, and time during which the hot or cold air generation system is off, and (2) based on the tracked aggregate amount of time, controlling at least one turn-on time or one turn-off time of a fan that transfers air into or out of the space. Claims 2-10 and 82 depend from claim 1, and therefore incorporate its limitations. Claim 11 recites a medium bearing instructions to cause a machine to perform the steps of claim 1. Claim 12 recites an apparatus that performs the method of claim 1.

Claim 83 recites a method for controlling a fan in a building having a heating or cooling system comprising (a) establishing a length of a fan period and a run time amount, the run time amount being less than the length of a fan period and (b) during a fan period: (i) operating the fan during at least some portions of periods when the heating or cooling system is operating and (ii) if the time when the heating or cooling system operates during the fan period is less than the run time amount, operating the fan for additional periods when the heating or cooling system is not operating, such that the fan operation time during the fan period equals the minimum run time amount. Claims 84-90 depend from claim 83, and therefore incorporate its limitations.

In rejecting the aforementioned claims, the Examiner has relied primarily on the Rudd patent, which the Examiner contends anticipates independent claims 1, 11, 12 and 83. Rudd discloses an "air distribution fan and outside air damper recycling control" (title) that controls an air-distribution fan and an outside air damper. During periods when heating or cooling is

operational, or when the user has manually requested "constant fan" mode, the air-distribution fan is operational. (Fig. 3, steps 312-318; col. 5, lines 38-43; col. 7, lines 13-15.) During periods when neither heating nor cooling is operational and the user has not manually requested "constant fan" mode, the operation of the air-distribution fan is controlled by a timer, which cycles the air-distribution fan on and off according to pre-selected or user defined "on" and "off" periods. (Fig. 3, steps 320-336; col. 5, lines 45-57; col. 7, lines 18-32.) This cycling continues until heating or cooling is operational, or the user requests "constant fan" mode, at which time cycling is discontinued. (Fig. 3, steps 314-316; col. 5, lines 38-45; col. 7, lines 16-17.) During periods when the air-distribution fan is operational, the outside air damper is cycled opened and closed according to pre-selected or user determined "open" and "closed" periods. (Fig. 3, steps 338-352; col. 5, line 62-col. 6, line 9; col. 7, lines 32-50.)

Thus, as disclosed in Rudd, the turning-on or turning-off of a fan that transfers air into or out of a space is controlled by a timer only when the heating or cooling system is not operational, and thus it is not based on an aggregate time that "comprises time during which a hot or cold air generation system is on, and time during which the hot or cold air generation system is off," as recited in claims 1, 11 and 12.

Neither does Rudd disclose "if the time when the heating or cooling system operates during the fan period is less than the run time amount, operating the fan for additional periods when the heating or cooling system is not operating, such that the fan operation time during the fan period equals the minimum run time amount," as recited in claim 83. Rudd does not disclose any measurement of time that a heating or cooling system operates during a fan period, and thus does not disclose determining whether that time is less than a run time amount.

Because, as demonstrated above, Rudd does not anticipate independent claims 1, 11, 12 and 83, it also does not anticipate claims 2-6 and 85-90 for at least the same reasons.

Claims 7-10 and 82 depend from claim 1. The Examiner rejected claims 7-10 as obvious over Rudd in combination with Smith, and rejected claims 7-10 and 82 as obvious over Rudd in combination with Kubota. But neither Smith nor Kubota teaches or suggests modifying Rudd to include the limitations of claim 1 that are missing from Rudd. Because claim 1 is patentably

distinct from Rudd, claims 7-10 and 82 are patentable over the combination of Rudd and Smith and the combination of Rudd and Kubota for at least the same reasons.

Claim 84 depends from claim 83. The Examiner rejected claim 84 as obvious over Rudd in combination with Kubota and as obvious over Rudd in combination with Moriya. But neither Kubota nor Moriya teaches or suggests modifying Rudd to include the limitations of claim 83 that are missing from Rudd. Because claim 83 is patentably distinct from Rudd, claim 84 is patentable over the combination of Rudd and Kubota and the combination of Rudd and Moriya for at least the same reasons.

Please apply any other charges or credits to deposit account 06-1050, attorney docket 14657-007001.

Respectfully submitted,

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